

STATE OF MARYLAND  
PUBLIC SCHOOL LABOR RELATIONS BOARD

IN THE MATTER OF: \*  
AFSCME, LOCAL 434, \*  
Charging Party, \*  
v. \* PSLRB Case SV 2019-05  
BOARD OF EDUCATION \*  
OF BALTIMORE COUNTY, \*  
Charged Party. \*

\* \* \* \* \*

**DECISION AND ORDER DENYING REQUEST FOR RELIEF AND DISMISSING CHARGE**

**I. INTRODUCTION AND PROCEDURAL BACKGROUND**

On March 22, 2019, AFSCME Local 434 (“Local 434”) filed a CHARGE OF VIOLATION OF TITLE 6, SUBTITLE 4 OR SUBTITLE 5, OF EDUCATION ARTICLE (Form PSLRB-05) with the Public School Labor Relations Board (“PSLRB”). Form PSLRB-05 reflects the authority granted to the PSLRB by the Education Article of the Annotated Code of Maryland to “decide any controversy or dispute arising under Title 6, Subtitle 4 or 5 of this Article.” Md. Code Ann., Educ. § 2-205(e)(4)(i). In its Charge, Local 434 asserts that the Board of Education of Baltimore County (“County Board”) violated Sections 6-509(b) and 6-510(a) of the Education Article.

On April 11, 2019, the County Board filed a Response to the Complaint of Statutory Violation and Motion to Dismiss (“Response”).

No additional filings were received by the PSLRB in this matter.

**II. FACTUAL BACKGROUND**

On August 29, 2018, various members of Local 434’s bargaining unit attended an in-service training. Thereafter, Local 434 became aware of members’ concerns that not all employees who attended the training were properly and timely paid. As a result, on January 14, 2019, Michael Fahey, President of Local 434, wrote an e-mail to David McCrae, Director of Transportation for Baltimore County Public Schools (“BCPS”), stating, “I am requesting names of BCPS employees who attended In [sic] service training... on August 29, 2018. I am preparing a grievance and I require this information.” On January 18, 2019, Mr. McCrae responded that he would provide a response on or after January 22, 2019.

On January 24, 2019, Mr. McCrae wrote to Mr. Fahey advising him that his “request has been forwarded to the school system’s... [Maryland Public Information Act (“MPIA”)] Officer for processing.” Later that same day, Mr. Fahey responded to Mr. McCrae stating, “You misunderstand. The request for information is not made under the MPIA. The request for information arises under Sections 6-509 and 6-510 of the Education Article of the Maryland Code. Those laws require... [BCPS] to bargain in good faith with the Union. The duty to bargain in good faith, in turn, requires that... [BCPS] provide... [Local 434] information necessary for it to carry out its statutory representational duties.”

On February 1, 2019, Margaret-Ann Howie, BCPS General Counsel, responded to Mr. Fahey, and explained that his request was being treated as “an application for public records subject to the Maryland Public Information Act,” and denied his request.

The County Board has not provided Local 434 with the information it requested.

### III. POSITIONS OF THE PARTIES

Local 434 asserts that, by failing to provide it with the information requested, the County Board breached its duty of fair representation in violation of Section 6-509(b) of the Education Article. In response, the County Board contends that Section 6-509(b) “applies to employee organizations,” and, “[a]s established in PSLRB’s jurisprudence... does not apply [to] the relationship between... [an employee organization] and the Employer[,] and should be summarily dismissed.”

Local 434 also asserts that the County Board violated its obligation to “[c]onfer in good faith [and] [h]onor and administer existing agreements...” under Section 6-510(a). In response, the County Board argues that, “[i]t has been clearly established by... [the PSLRB] that the complaint process is not to be employed to challenge the provisions of collective bargaining agreements,” citing *AFSCME Local 434 v. Baltimore County Board of Education*, PSLRB Case SV 2017-03 and *AFSCME Local 434 v. Baltimore County Board of Education*, PSLRB Case SV 2018-08, *aff’d* Circuit Court for Baltimore County, Case No 03-C-18-2120.

Finally, Local 434 contends that “[a] union’s right to information is well-established before the National Labor Relations Board. So too, the State Labor Relations Board and the State Higher Education Labor Relations Board have adopted and applied the right as fundamental to collective bargaining.”

### IV. ANALYSIS

#### a. Section 6-509(b)

Section 6-509(b) of the Education Article states, “[a]n *employee organization designated as an exclusive representative* shall represent all employees in the unit fairly and without discrimination, whether or not the employees are members of the employee organization.” (Emphasis added.)

This Section imposes a duty of fair representation on an employee’s **exclusive representative**, and an employee may file a charge alleging that the **exclusive representative**

violated that duty. Section 6-509(b) is inapplicable to public school employers. *Dorsey v. Board of Education of Baltimore County*, PSLRB SV 2018-01 (2018). Therefore, an employee organization may not file a charge against a public school employer alleging a violation of the duty of fair representation.

As a result, the PSLRB dismisses Local 434's Charge with respect to Section 6-509(b).

**a. Section 6-510(a)**

Section 6-510(a) of the Education Article states in relevant part, “[w]hen a public school employer and an employee organization negotiate under this section, the public school employer and the employee organization shall: (1) [c]onfer in good faith, at all reasonable times; and (2) [h]onor and administer existing agreements....”

In two previous decisions involving these same parties, PSLRB SV 2017-03 and PSLRB SV 2018-08, *supra*, the PSLRB analyzed Section 6-510 of the Education Article with respect to the administration of collective bargaining agreements. In each of these cases, the PSLRB held:

Although the introductory provision to this Section states that “[w]hen a public school employer and an employee organization negotiate under this section,” they shall, *inter alia*, “[h]onor and administer existing agreements,” this statement must be read in context. To begin with, Section 6-510, by its terms, imposes the latter obligation on the public school employer and the employee organization **only during the period when they “negotiate under this section.”** The remainder of Section 6-510 deals in its entirety with the process for negotiating -- as opposed to honoring and administering -- collective bargaining agreements, and in the negotiation process the Section specifically assigns to the PSLRB responsibility for resolving disputes between the parties regarding the negotiability of proposed topics and for resolving impasses that may be reached in negotiations. **Section 6-510 does not address the administration of collective bargaining agreements and does not in any way suggest that the PSLRB should play a role in the administration process.** Indeed, Section 6-510(b) suggests the contrary. This latter Section, which is titled “Binding arbitration,” provides that collective bargaining agreements negotiated by public school employers and employee organizations “may provide for binding arbitration of the grievances arising under the agreement that the parties have agreed to be subject to arbitration.”

(Emphasis added). Based on these holdings, it is clear that Section 6-510 does not apply to the instant dispute as the parties are not engaged in negotiations, nor does the matter deal with a negotiability dispute or the collective bargaining process. Moreover, the instant matter involves a request for information relative to the processing of a grievance, a process in which the PSLRB has determined it should not play a role.

Furthermore, the PSLRB is not bound by decisions of the Maryland State Labor Relations Board, the Maryland State Higher Education Labor Relations Board, or the National Labor Relations Board. See *AFSCME Local 434 v. Board of Education of Baltimore County*, Case No. 03-C-18-2120 (March 6, 2019) (affirming the decision of the

PSLRB dismissing a charge filed by Local 434 against the Board of Education of Baltimore County under Section 6-510 of the Education Article, and explaining, “[a]lthough the Maryland State Labor Relations Board (SLRB) and the Maryland State Higher Education Labor Relations Board (SHELRB) have adopted the NLRB’s interpretation of ‘negotiating in good faith’ in a manner which would require the exchange of information during the administration of the grievance process, the PSLRB has yet to adopt such an interpretation”). Therefore, Local 434’s reliance on these decisions is misplaced.

For these reasons, the PSLRB dismisses Local 434’s Charge with respect to Section 6-510(a).

**V. CONCLUSIONS OF LAW**

As indicated above, in the Charge that it has filed in this case, AFSCME alleges that the County Board has violated Sections 6-509(b) and 6-510(a) of the Education Article by refusing to provide AFSCME with certain information it requested relating to a grievance. The PSLRB concludes that Section 6-509(b) of the Education Article is applicable only to the exclusive negotiating representatives of public school employees, not public school employers. Furthermore, the PSLRB finds that the County Board did not violate Section 6-510(a) of the Education Article by refusing to supply AFSCME with the requested information.

**VI. ORDER**

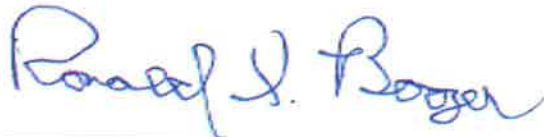
IT IS HEREBY ORDERED THAT THE CHARGE IN PSLRB Case No. SV 2019-05 IS DISMISSED.

BY ORDER OF THE PUBLIC SCHOOL LABOR RELATIONS BOARD:



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Elizabeth Morgan, Chair



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Ronald S. Boozer, Member



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Robert H. Chanin, Member

R Allan Gorsuch

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R. Allan Gorsuch, Member

Philip S Kauffman

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Philip S. Kauffman, Member

Annapolis, MD

June 10, 2019

APPEAL RIGHTS

Any party aggrieved by this action of the PSLRB may seek judicial review in accordance with Title 10, Subtitle 2 of the State Government Article, Annotated Code of Maryland, Sec. 10-222 (Administrative Procedure Act—Contested Cases) and Maryland Rules CIR CT Rule 7-201 *et seq.* (Judicial Review of Administrative Agency Decisions).